IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE P.N.RAVINDRAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 35554 of 2007(G)
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PETITIONER:
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M.T.JACOB, AGED 68,
S/O.THARIYAN, MOOZHAYIL HOUSE,
VENGOOR, KIDANGOOR P.O., ANGAMALI.

BY ADV. SMT.P.V.KOCHUTHRESIA

RESPONDENTS:
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1. SUPERINTENDENT OF POLICE,
(RURAL), ALUVA.

2. CIRCLE INSPECTOR OF POLICE,
ANGAMALY.

3. SUB INSPECTOR OF POLICE, ANGAMALY.

4. LORRY DRIVERS AND CLEANERS UNION,
ANGAMALI MEGHALA (CITU), ANGAMALY,
REPRESENTED BY ITS GENERAL SECRETARY.

BY ADV. SRI.KKM.SHERIF
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SRI.V.R.REKESH
GOVERNMENT PLEADER SRI.P.A.SALIM.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 35554/07

APPENDIX

PETITIONER'S EXTS.

EXT.P1 - TRUE COPY OF JUDGMENT IN O.P.NO.9281/1987-E OF THIS HONOURABLE COURT, DATED 1.12.1987.

EXT.P2 - TRUE COPY OF JUDGMENT IN O.P.NO.9128/02(J) DT. 4.4.02

EXT.P3 - TRUE COPY OF COMPLAINT DT. 17.11.2007 OF THE PETITIONER TO R1.

EXT.P4 - TRUE COPY OF COMPLAINT DT. 19.11.2007 OF THE PETITIONER TO R2.

RESPONDENTS' EXTS.

EXT.R2(a) – A TRUE COPY OF THE SALE DEED.

EXT.R4(a) – TRUE COPY OF THE SALE AGREEMENT DATED 09.11.07.

EXT.R4(b) – TRUE COPY OF THE SALE AGREEMENT DATED 14.11.07.

EXT.R4(c) – TRUE COPY OF THE COMPLAINT DATED 16.04.1997.

/TRUE COPY/

K.BALAKRISHNAN NAIR &

P.N.RAVINDRAN, JJ.

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W.P.(C) NO. 35554 OF 2007-G

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Dated 17th December, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner is the owner of a lorry bearing registration No.KL-8D 378. He is also driving it. The said vehicle was purchased by him recently, after selling an old lorry. He submits, he was parking his vehicle by the side of the godown of the Food Corporation of India and the Railway Goods Shed at Angamaly and transporting goods from there to various places. But, after the purchase of the new vehicle, he is obstructed from parking the vehicle there and even if he parks his vehicle there, he is obstructed from taking loads. In the above background, this writ petition is filed, seeking police protection. The 4th respondent is allegedly causing obstruction, it is submitted.

2. The 4th respondent has filed a counter affidavit, in which it is submitted that the said respondent is not causing any obstruction to the parking of the petitioner's vehicle. There is a self-imposed restriction

among the lorry owners/drivers for parking and carrying on their business in the aforementioned area. The petitioner has sold his old vehicle to a third party, along with his right to park the vehicle there and get load according to the turn. Since he has transferred even his right to park and get work according to the turn, he cannot be permitted to come and claim work there with a new vehicle, as per the understanding between the lorry owners/workmen, operating there. It is also submitted that the members of the 4th respondent are not offering any physical obstruction to the petitioner doing work from there.

3. The police have also filed a statement, which substantially tallies with the contentions raised by the 4th respondent.

` 4. We heard the learned counsel on both sides. The learned counsel for the petitioner relying on Exts.P1 and P2 judgments, submitted that the petitioner is entitled to park his vehicle and carry loads from the aforementioned area, provided anyone engages him, without any obstruction from the 4th respondent or its members. The learned counsel for the 4th respondent reiterated the stand of the said respondent that since the petitioner has transferred his right to park and get load according to the turn, he cannot be permitted to claim the very same right, after purchasing a new vehicle.

5. We feel that no one has got any power or authority to restrict the parking of vehicles by vehicle owners and doing transporting work, if there are persons, who are willing to engage them. The petitioner must be conceded freedom to park any number of vehicles, as the place where he parks them, is a public place, over which no one can claim exclusive right. He must also be conceded freedom to do business, if there are persons, who are willing to engage him to transport goods. So, if there is any actual obstruction from the part of the 4th respondent or its members, the petitioner shall inform respondents 2 and 3. In that event the said respondents shall take prompt action to remove the obstruction.

The Writ Petition is disposed of as above.

**K.BALAKRISHNAN NAIR, JUDGE**.

**P.N.RAVINDRAN, JUDGE.**

Nm/